HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 536 of 2007

Between:

Vaggae Purnachandra Rao

… Appellant

And

The Asst. Executive Engineer,
Mandal Development Office,
Penamaluru Mandal, Krishna District & others

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri V. Ramu

Counsel for respondent Nos. 1 and 2 : Government Pleader for Panchayat Raj & Rural Development

July 3, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 17.04.2007 passed by the learned Single Judge in Writ Petition No.7922 of 2007, whereby he rejected the appellant's prayer for issue of a direction to respondent Nos. 1 and 2 to measure the works executed by him (the appellant herein) in furtherance of Roc.No.122/06 dated 05.04.2006 issued by Secretary, Kanuru Gram Panchayat, Penamaluru Mandal, Krishna District.

On 29.6.2007, we had, after hearing learned counsel for the appellant, passed the following order:

" Shri V. Ramu for the appellant.

Government Pleader for Panchayat Raj and Rural Development for respondent Nos. 1 and 2.

Heard learned counsel for the appellant and perused the record.

Prima facie we are inclined to record our total disagreement with the learned Single Judge that the remedy available to the petitioner against the inaction of the official respondents was to approach the Executive Engineer and seek redressal of his grievance. In our opinion, once a person makes a representation or serves a notice of demand for justice on a public authority to ventilate his grievance, such authority is duty-bound to respond to the representation/notice, else the requirement of demand for justice which constitutes a condition precedent for issue of a mandamus will be reduced to an empty formality.

Notice to the respondents for 03.07.2007 to show cause as to why the writ appeal may not be admitted and finally disposed of.

Learned Government Pleader for Panchayat Raj accepts notice on behalf of respondent Nos. 1 and 2.

Shri N. Hema Reddy appearing for Shri M. Prabhakar accepts notice on behalf of respondent No.3.

Put up on 03.07.2007 on which date respondent No.2 should appear in person along with the records and explain as to why no response was given to notice dated 21.02.2007 sent by the counsel for the appellant."

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In compliance of the above noted order, Shri A. Venkateswara Rao, Deputy Executive Engineer, Panchayat Raj Department and Shri G.V. Ramana Sharma, Secretary, Kanuru Gram Panchayat have appeared in person.

In reply to the Court's query, Shri A. Venkateswara Rao gave out that he is not aware of the works awarded by Kanuru Gram Panchayat to the appellant. On his part, Shri G.V. Ramana Sharma stated that a sum of Rs.17,00,000/- was paid to the appellant in lieu of the works executed by him within the time specified in Roc.122/2006 dated 05.04.2006, but vide resolution dated 30.08.2006, the appellant was directed not to execute the remaining work because he failed to complete the works within the specified time.

Learned counsel for the appellant vehemently submitted that his client had executed most of the works within the time specified and that he cannot be accused of delay in executing the works. Learned counsel argued that failure of the respondents to measure the works has resulted in depriving the appellant of his right to property because the gram panchayat has not released the amount due to him.

Learned Government Pleader for Panchayat Raj invited our attention to order dated 09.03.2007 passed by the learned Single Judge in Writ Petition Nos. 21053 and 21051 of 2006 to show that another petition filed by the appellant on similar cause was disposed of by directing him to approach the concerned District Collector for redressal of the grievance, and then argued that instead of filing fresh petition, the appellant should have availed remedy by making representation to the District Collector.

We have given serious thought to the entire matter and are of the opinion that the appellant is not entitled to the relief under Article 226 of the Constitution of India because he has not approached the Court with clean hands. In the affidavit filed him, the petitioner has no where stated that the amount due to him in respect of the works completed within the time specified in order dated 05.04.2006 was released and in respect of the remaining works, the gram panchayat had passed resolution dated 30.08.2006. He has also concealed the fact that some of the works allotted to him were not completed within the specified time and, on that account, the amount allegedly due to him was not released.

For the reasons stated above, the appeal is dismissed leaving the appellant free to avail remedy under the Andhra Pradesh Gram Panchayat (Invitation and Acceptance of Tenders for Works and Purchases) Rules, 2002 or by way of civil suit.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.1040 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 3, 2007

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